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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,128

09/30/2003

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42391-10009

5709

2574 7590 07/22/2008
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EXAMINER

RAPILLO, KRISTINE K

ART UNIT

PAPER NUMBER

3626

MAIL DATE

DELIVERY MODE

07/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/675,128	Applicant(s) MILOSAVLJEVIC, NADA	
	Examiner KRISTINE K. RAPILLO	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/30/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1 – 27 are pending.

Notice to Applicant

1. This communication is in response to the amendment submitted May 14, 2008. Claims 8 and 22 have been amended. Claims 1 - 27 are presented for examination.

Drawings

2. The objections to the drawings are hereby withdrawn based upon the amendment submitted May 14, 2008.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "simultaneously displaying the selected information" is vague and indefinite. It is unclear how the information is simultaneously displayed. For examination purposes, the Examiner has treated it as simultaneously displayed on a computer monitor.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. The claimed invention is directed to non-statutory subject matter. In order for a method to be considered a "process" under 35 USC § 101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an

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article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under 35 USC § 101 and is non-statutory subject matter. With regard to claim 1, the method claimed by the Applicant is not tied to another statutory class as it recites the limitations “determining attributes of the patient...”, “selecting a source of information...”, “comparing the attributes of the patient....”, “indicating...match an attribute of a patient”, “recording data identifying the patient”, and “simultaneously displaying the selected information....”. The method claimed does not include a particular machine, nor does it transform the data identifying the patient. The method steps recited in the body of claim 1 could reasonably be interpreted to encompass a human being performing these steps. The citation “recording data” includes only a nominal recitation of an apparatus. Nominal recitations of structure in an otherwise ineligible method fail to make the method a statutory process. Claims 2 – 7 have similar deficiencies as noted above with regard to claim 1 and therefore are rejected for substantially the same reason.

NOTE: The following art rejections assume that the subject matter of claims 1 – 7 will be amended to recite statutory subject matter. The art rejections are provided herein below for the Applicant's consideration on the condition that the Applicant properly incorporates concrete and tangible elements as discussed above in the rejections under 35 U.S.C. 101 in the next communication sent in response to the present Office Action.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (U.S. Patent Number 6,047,259) in view of Blasingame et al. (U.S. Pub. No. 2002/0022975).

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In regard to claim 1, Campbell et al. teaches a method for facilitating the evaluation, diagnosis and treatment of a patient suspected of having a medical disorder (column 2, lines 2 – 4), comprising: determining attributes of the patient and making a preliminary diagnosis based on the attributes that a patient has a particular medical disorder (column 7, lines 35 – 41); comparing the attributes of the patient to the information on the selected source of information (column 7, lines 42 – 47 and column 17, lines 3 – 7); indicating a portion of the information from the selected source that matches or does not match an attribute of the patient (column 7, lines 42 – 46); and simultaneously displaying the selected information, matching indicia and patient data (column 11, lines 11 – 29 and lines 46 – 49). The examiner interprets attributes to include patient information such as smoking, obesity, etc since an attribute is a quality or characteristic or ascribing to someone or something.

Campbell fails to teach a method of selecting a source of information about a particular medical disorder and recording data identifying the patient.

Blasingame et al. teaches a method of selecting a source of information about a particular medical disorder (paragraph [0172]) and recording data identifying the patient (paragraphs ([0077] and [0099 through 0104]).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to include a method of selecting a source of information about a particular medical disorder and recording data identifying the patient as taught by Blasingame et al. with the motivation of improving doctor-patient communication by offering condition-specific information – i.e. information specific to a particular medical disorder (paragraph [0008]) in Blasingame et al. Both doctors and patients supply the information via a medical information system, which is accessible.

In regard to claim 2, Campbell et al. teaches a method as per claim 1 to evaluate, diagnose and treat a patient suspected of having a medical disorder.

Campbell et al. fails to teach a method wherein the information in the source about a medical disorder comprises at least one sign or symptom of the medical disorder, at least one test used to confirm or evaluate the medical disorder, and at least one treatment for the medical disorder.

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Blasingame et al. teaches a method wherein the information in the source about a medical disorder comprises at least one sign or symptom of the medical disorder (paragraphs [0221] through [0275] with accompanying Figures 17C and D), at least one test used to confirm or evaluate the medical disorder (paragraphs [0221] through [0275] with accompanying Figures 17C and D), and at least one treatment for the medical disorder (paragraphs [0221] through [0275] with accompanying Figures 17C and D).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention was made to include a method in which the information in the source about a medical disorder comprises at least one sign or symptom of the medical disorder, at least one test used to confirm or evaluate the medical disorder, and at least one treatment for the medical disorder as taught by Blasingame et al. with the motivation of providing a focused office visit with a physician or health care provider by enabling the physician to utilize the most recent medical advances (i.e. tests, treatments) documented in the information source (paragraph [0011]), as suggested by Blasingame et al.

In regard to claim 3, Campbell et al. teaches a method where the information source consists of a template containing information relating to one or more medical disorders and having a field of entry for patient information (column 12, lines 13 – 21 and Figure 4).

In regard to claim 4, Campbell et al. teaches a method as per claim 3 where an information source consists of a template with information on one or more medical disorders.

Campbell et al. fails to teach a method where the template is a printed sheet.

Blasingame et al teaches wherein the template is a printed sheet (paragraph [0124]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention was made to include a method where the template is a printed sheet as taught by Blasingame et al. with the motivation of retaining the sheet for a patients medical record, stored in the physicians office file (paragraph [1033]) as suggested by Blasingame et al.

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In regard to claim 5, Campbell et al., as per the method of claim 4, does not expressly show wherein the sheet is erasable and reusable.

However, these differences are only found in the nonfunctional descriptive material and do not alter how the template functions (i.e. the descriptive material does not reconfigure the display). Thus, the descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to erase and reuse the sheet because such data does not alter how the template functions and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

In regard to claim 6, Campbell et al. teaches a method where the template is a printed sheet, as per claim 3.

Campbell et al. fails to teach a method where the information source is a computerized database and the template is a computer-generated visual display.

Blasingame et al. teaches wherein the source is a computerized database and the template is a computer-generated visual display (paragraphs [0125] through [0130]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention was made to include a method where the source is a computerized database and the template is a computer-generated visual display as taught by Blasingame et al. with the motivation of allowing both physicians and patients the ability to receive and display medical information at their convenience (paragraph [0077]) as suggested by Blasingame et al.

In regard to claim 7, Campbell et al. teaches a method of transmitting matching indicia and patient data from a health care practitioner making the selection including matching indicia and patient data from a health care practitioner making the selection (column 17, lines 3 – 7).

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Campbell et al. fails to teach transmitting selected information to another health care practitioner and transmitting to the patient's medical record.

Blasingame et al. teaches transmitting selected information comprising:

- Indication or recordation to another health care practitioner (paragraph [0106]) where the information available is provided only if the patient authorizes the transfer. The information is transferred following the same process as taught by Campbell et al. above.
- The patient's medical record (paragraph [0012]).

The motivation for combining the teachings of Campbell et al. and Blasingame et al. is discussed in the rejection of claim 6.

In regard to claim 8, Campbell et al. teaches a method for managing patient medical information using a computer system having data storage means and a graphical user interface (column 3, lines 43 – 46) including a display, data input means, and a selection device, the method comprising:

- Retaining in the storage means a database of information related to medical conditions (column 4, lines 43 – 52);
- Making a preliminary diagnosis that a patient is afflicted with a particular one of said medical conditions (Figure 9: column 3, lines 1 – 4; column 2, lines 22 – 31; and column 7, lines 42 – 56);
- Using the selection device to retrieve from the database information relating to said particular one of said medical condition (Figures 4 and 9; column 7, lines 46 – 47);
- Using the data input means to enter patient data into the storage means (column 4, lines 56 – 60); and
- Simultaneously displaying the retrieved information and the patient data on the display (column 11, lines 11 – 29 and lines 46 – 49).

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In regard to claim 9, Campbell et al. teaches a method, as per claim 8, further comprising displaying additional reference information not limited to the medical condition or patient data (column 18, lines 1 – 6).

In regard to claim 10, Campbell et al. teaches a method, as per claim 8, for managing patient medical information using a computer system.

Campbell et al. fails to teach a method wherein the database comprises information on the etiologies of said medical conditions. Etiology is defined in the specification of the application of interest as information pertaining to the cause or origin of a medical disorder.

Blasingame et al. teaches a method wherein the database comprises information on the etiologies of said medical conditions (paragraphs [0063] and [0064]; figures 17A and 17B). Figures 17A and 17B illustrate condition specific physician reports which detail the possible causes or origins of a medical condition.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a method wherein the database comprises information on the etiologies of said medical conditions as taught by Blasingame et al. in view of the teachings of Campbell et al. with the motivation of providing the physicians with additional tools to perform a diagnosis on a patient, including differential diagnosis and work-up algorithms via the use of the medical information database(paragraph [0166]) as suggested by Blasingame et al.

In regard to claim 11, Campbell et al. teaches a method, as per claim 8, wherein the database comprises information on the signs or symptoms of the medical conditions (column 7, lines 42 – 46).

In regard to claim 12, Campbell et al. teaches a method wherein the displayed patient data and the retrieved medical condition information associates one of said signs or symptoms with the patient (column 17, lines 3 – 7).

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In regard to claim 13, Campbell et al. teaches a method as per claim 8, for managing patient medical information using a computer system.

Campbell et al. fails to teach a method wherein the database comprises information on differential diagnoses of the medical conditions.

Blasingame et al teaches a method wherein the database comprises information on differential diagnoses of the medical conditions (paragraphs [0089] and [0166]).

The motivation for combining the teachings of Campbell et al. and Blasingame et al. is discussed in the rejection of claim 10.

In regard to claim 14, the method of claim 8, wherein the database comprises information on diagnostic tests or work-up procedures used to confirm or evaluate the medical conditions (Figure 10 and column 17, lines 45 –52). Figure 10 illustrates a diagnostic protocol in which a diagnosis is selected with database generated treatment options, including diagnostic test/work-up procedures. A work-up procedure includes any type of test performed on a patient, including fluids, tissues, secretions, and excretions. The examiner interprets diagnostic test and work-up procedure to be equivalent as both are laboratory tests used to confirm or rule out a medical disorder.

In regard to claim 15, the method of claim 14, wherein the displayed patient data and the retrieved medical condition information associates one of said tests or a portion of said work-up with the patient (Figures 9 and 10, where Figure 9 illustrates patient data and Figure 10 illustrates recommended diagnostic tests/work-up procedures).

In regard to claim 16, Campbell et al. teaches a method, as per claim 8, wherein the database comprises information on the treatment or management of patients with the medical conditions (column 17, lines 46 – 52; Figure 10 in Campbell et al. teaches computer screen shots which illustrate a diagnostic protocol which is defined in the reference as a tool to manage a treatment protocol).

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In regard to claim 17, Campbell et al. teaches a method as per claim 16, wherein the displayed patient data and the retrieved medical condition information associates one of said treatments or management procedures with the patient (column 16, lines 66 – 67 through column 17, lines 1 – 7 and Figure 9).

In regard to claim 18, Campbell et al. teaches a method as per claim 8, for managing patient medical information using a computer system.

Campbell et al. fails to explicitly teach a method wherein said patient data identifies the said patient.

Blasingame et al. teaches a method wherein said patient data identifies the said patient (paragraphs [0099] through [0103]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a method wherein patient data identifies the said patient as taught by Blasingame et al. in view of the teachings of Campbell et al. with the motivation of allowing the patient to manage personal information by inputting any editorial requirements, storage, and display of data (paragraphs [0096] and [0097]) of a medical chart as suggested by Blasingame et al. This allows the physician to have available any condition-specific information prior to a diagnosis/examination.

In regard to claim 19, Campbell et al. teaches a method, as per claim 8, a computer-readable medium having computer-executable instructions for facilitating the performance of the method (column 4, lines 43 – 47).

In regard to claim 20, Campbell et al. teaches, as per the method of claim 8, wherein the medical information includes at least one type of information selected from each of the following four groups:

(b) Sign, symptom, or abnormality (Figure 9 and column 16, lines 33 - 42).

(d) Treatment, management, follow-up, prognosis, staging criteria, or surgical indication (figures 9 and 10 and column 16, lines 45 – 54).

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The invention of Campbell et al. was specifically adapted for a veterinary practice, however it is obvious that the same invention can be used for human medical use (column 1, lines 59 – 60) for the advantage of electronically diagnosis of a medical disorder.

Campbell et al. fails to teach wherein the medical information includes at least one type of information in the following groups:

- (a) Definition, epidemiology, etiology, background, or description;
- (c) Differential diagnosis, diagnostic work-up, laboratory test or data.

Blasingame et al. teaches a method wherein the medical information includes at least one type of information selected from each of the following:

- (a) Definition, epidemiology, etiology, background, or description (paragraphs [0063] and [0064], Figures 17A and B).
- (c) Differential diagnosis, diagnostic work-up, laboratory test or data. (paragraphs [0066], [0067], [0087], [0221] through [0275], and Figures 17C and D). The examiner interprets diagnostic work-up and laboratory test to be equivalent as a diagnostic work-up is defined as any type of test performed on a patient.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a method wherein the medical information includes at least one type of information selected from each of the following: (a) definition, epidemiology, etiology, background, or description and (c) differential diagnosis, diagnostic work-up, laboratory test or data as taught by Blasingame et al. in view of the teachings of Campbell et al. with the motivation of providing medical information over a computer network to enhance communications between physicians and patients (paragraph [0008]) as suggested by Blasingame et al.

In regard to claim 21, Campbell et al. teaches a method as per claim 20, wherein said displayed medical information and patient data associates one of said signs or symptoms with the patient (column 16, lines 66 – 67 through column 17, lines 1 – 7 and Figure 9).

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In regard to claim 22, Campbell et al. teaches a device for use in connection with providing health care to a patient having been preliminarily diagnosis as being afflicted with a medical disorder, comprising:

- A source of information on treatments for the medical disorder, wherein a user can select a treatment relevant to the patient and the device maintains a record of the selection (column 17, lines 46 – 52); and
- At least one field associated with said sources of information for entry of patient data (Figure 4 and column 12, lines 13 – 18).

Campbell et al. fails to teach a source of information on signs or symptoms associated with the medical disorder identified by the preliminary diagnosis, wherein a user can select a sign or symptom relevant to the patient and to the medical disorder identified by the preliminary diagnosis and the device maintains a record of the selection and a source of information on tests used to determine the presence or severity of the medical disorder, wherein a user can select one of said tests relevant to the patient and the device maintains a record of the selection.

Blasingame et al. teaches a device for use in connection with providing health care to a patient, comprising:

- A source of information on signs or symptoms associated with a medical disorder identified by the preliminary diagnosis, wherein a user can select a sign or symptom relevant to the patient and to the medical disorder identified by the preliminary diagnosis and the device maintains a record of the selection (paragraphs [0080] and [0083])
- A source of information on tests used to determine the presence or severity of the medical disorder, wherein a user can select one of said tests relevant to the patient and the device maintains a record of the selection (paragraphs [0009], [0090], [0189], and [0211]);

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a method wherein a source of information on signs or symptoms associated with a medical disorder, wherein a user can select a sign or symptom relevant to the patient and the device maintains a record of the selection and a source of information on tests used to determine the presence or severity of the medical disorder identified by the preliminary diagnosis, wherein a user can select one

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of said tests relevant to the patient and to the medical disorder identified by the preliminary diagnosis and the device maintains a record of the selection as taught by Blasingame et al. in view of the teachings of Campbell et al. with the motivation to provide physicians with the tools (i.e. a device such as a PDA) to gather medical information, the latest medical practices, and differential diagnosis to use in diagnosing and treating a patient (paragraph [0089]) as suggested by Blasingame et al.

In regard to claim 23, Campbell et al. teaches, as per claim 22, a device used for aid in providing health care to a patient.

Campbell et al. fails to teach wherein the device is a printed template.

Blasingame et al. teaches, as per claim 22, wherein the device is a printed template (paragraph [0124]).

The motivation for combining the teachings of Campbell et al. and Blasingame et al. is discussed in the rejection of claim 22.

In regard to claim 25, as per the device of claim 22, Campbell et al. does not expressly show wherein the template is adapted to be marked by a user and the marks can be later removed and the template returned to its original condition and marked again.

However, these differences are only found in the nonfunctional descriptive material and do not alter how the template functions (i.e. the descriptive material does not reconfigure the display). Thus, the descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made wherein the template is adapted to be marked by a user and the marks can be later removed and the template returned to its original condition and marked again because such data does not alter how the template functions and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

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In regard to claim 26, Campbell et al. teaches, as per claim 22, a device used to aid in providing health care to a patient.

Campbell et al. fails to teach wherein the device is an electronic storage and computing device.

Blasingame et al. teaches a device, as per claim 22, wherein the device is an electronic storage and computing device (paragraph [0080]).

The motivation for combining the teachings of Campbell et al. and Blasingame et al. is discussed in the rejection of claim 22.

In regard to claim 27, Campbell et al. teaches a device as per claim 26.

Campbell et al. fails to teach a device wherein the device is portable.

Blasingame et al. teaches a device wherein the device is portable (paragraph [0080]).

The motivation for combining the teachings of Campbell et al. and Blasingame et al. is discussed in the rejection of claim 22.

3. Claim 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. and Blasingame et al. as applied to claim 22 above, and further in view of Sonstebly (U.S. Patent Number 5,636,873).

In regard to claim 24, Campbell et al. and Blasingame et al. teach the device of claim 22.

Campbell et al. and Blasingame et al. fail to teach a method further comprising multiple copies of the templates assembled together such that one copy at a time can be removed by a user without damaging the remaining copies.

Sonstebly teaches a method further comprising multiple copies of the templates assembled together such that one copy at a time can be removed by a user without damaging the remaining copies (column 1, lines 66 – 67 through column 2, lines 1 – 4).

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Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a method further comprising multiple copies of the templates assembled together such that one copy at a time can be removed by a user without damaging the remaining copies as taught by Sonsteby in view of Campbell et al. and Blasingame et al. with the motivation of educating the patient in regards to his or her medical disorder (column 4, lines 50 – 54) as suggested by Sonsteby.

Response to Arguments

4. Applicant's arguments filed May 14, 2008 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed May 14, 2008.

In response to Applicant's argument of claim 1, the Applicant argues that Campbell teaches away from the subject matter of claims 1 – 7. The Examiner respectfully disagrees. The suggested combination of Campbell and Blasingame et al. is improper because cannot be combined where the references teach away from their combination specifically "determining attributes", "comparing attributes", "indicating matches of attributes", and "displaying matches of attributes" versus "selecting a source of information" and "recording data identifying patient". The Examiner respectfully submits that is not evidence that the applied references teach away from applicant invention. In addition, it is the Campbell reference relied on for the teachings of a "making a preliminary diagnosis based on the attributes that a patient has a particular medical disorder. Campbell illustrates a method in which a physician determines a preliminary or tentative diagnosis based on the characteristics (i.e. symptoms, complaints) of the patient (Figure 3). The invention of Campbell then provides a list of additional characteristics based on the preliminary or tentative diagnosis. In addition, Campbell's invention provides a comprehensive list of possible diagnoses with a corresponding list of treatment protocols (Figure 9). The Examiner interprets a preliminary diagnosis to be equivalent to a tentative or initial diagnosis; it is an examination of a patient based on a cursory exam and may require additional follow up (column 13, lines 19 – 26 and column 17, lines 23 – 36). **Furthermore, it is respectfully submitted that if Applicant's were correct in his**

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assertion which Examiner does not admit, it has been held that prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

In response to Applicant arguments of claims 8 and 22, it is respectfully submitted that the Examiner has applied new passages and new citations to the amended claims. The Examiner notes that the amended limitations were not in the previously pending claims as such: Applicant's remarks with regard to the application of Campbell and Blasingame references to the amended limitations are addressed in the above Office Action.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 4 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KKR

/Robert Morgan/
Primary Examiner, Art Unit 3626